

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Jason Williams And Stephanie Williams**

Case No. 10-81432

Chapter 13

Social Security No. xxx-xx-1769 and xxx-xx-6194  
Address: 5738 Severn Grove Drive, Durham, NC 27703-

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Debtors

**MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on August 12, 2010, with the Chapter 13 plan being subsequently confirmed on December 6, 2010.

2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From: \$2,379.00 per month.

To: \$2,379.00 per month through July 2011, followed thereafter by \$2,198.00 per month, starting in September 2011.

3. To facilitate the proposed modification, the Debtors hereby surrender any interest they may have in collateral securing the following claims:

Creditor and Claim No.	Collateral
State Employees Credit Union (claim no.5 )	2003 Chevrolet G2500

4. At the time of the filing of the Debtors' Chapter 13 bankruptcy, the 2003 Chevrolet G2500 had a fair market value of \$9,607.00, requiring adequate protection payments in the amount of \$96.07, or a total of \$1,056.77

5. At the time of the filing of the Debtors' Motion to Modify, the Debtors have paid \$2,136.61 to State Employees Credit Union, exceeding the depreciation, pursuant to local rule and the Confirmation Order, on the 2003 Chevrolet G2500

6. The changed circumstances that justify the proposed modification are as follows:
  - a. The Chapter 13 Trustee has brought a Motion to Modify seeking an increased plan payment.
  - b. The Debtors have been struggling with their plan at its present amount.
7. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
8. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
9. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Filed claims different from schedules.
  - b. Surrender of property.
  - c. Change in equal monthly payment to Car Max from \$397.44 to \$366.00.

**Appended Application for an Additional Attorney Fee**

10. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.
11. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(a), for approval reimbursement for the cost of mailing this Motion to all parties in interest in the amount of \$0.50 per motion for fifty-eight (58) creditors, or total expenses of \$29.00.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$279.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: August 2, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward C. Boltz  
Edward C. Boltz  
North Carolina State Bar No.: 23003  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

UNITED STATES BANKRUPTCY COURT  
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In Re:

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Case No. 10-81432

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Social Security No. xxx-xx-1769 and xxx-xx-6194  
Address: 5738 Severn Grove Drive, Durham, NC 27703-

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Debtors

**CERTIFICATE OF SERVICE**

I, Dawn DeFrane, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on August 2, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Jason Williams And Stephanie Williams  
5738 Severn Grove Drive,  
Durham, NC 27703-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Dawn DeFrane  
Dawn DeFrane

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S): <b>None.</b>	AGE(S):
Employment:	DEBTOR	SPOUSE
Occupation	<b>Sales/Project Manager</b>	<b>Receptionist/Training Assistant</b>
Name of Employer	<b>ARS</b>	<b>SoftPro/LPS</b>
How long employed	<b>1 year</b>	<b>7 Years</b>
Address of Employer	<b>5200 Old Chapel Hill Road Durham, NC 27707</b>	<b>4800 Falls of the Neuse Road, Suite 400 Raleigh, NC 27609</b>

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <b>4,310.77</b>	\$ <b>2,092.25</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

3. SUBTOTAL:

\$ <b>4,310.77</b>	\$ <b>2,092.25</b>
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues
- d. Other (Specify) See Detailed Income Attachment

\$ <b>922.17</b>	\$ <b>403.62</b>
\$ <b>12.44</b>	\$ <b>371.20</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>38.70</b>	\$ <b>141.78</b>

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <b>973.31</b>	\$ <b>916.60</b>
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <b>3,337.46</b>	\$ <b>1,175.65</b>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)

\$ <b>0.00</b>	\$ <b>0.00</b>
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8. Income from real property

\$ <b>0.00</b>	\$ <b>0.00</b>
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9. Interest and dividends

\$ <b>0.00</b>	\$ <b>0.00</b>
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10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

\$ <b>0.00</b>	\$ <b>0.00</b>
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11. Social security or government assistance

\$ <b>0.00</b>	\$ <b>0.00</b>
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(Specify): \_\_\_\_\_

\$ <b>0.00</b>	\$ <b>0.00</b>
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12. Pension or retirement income

\$ <b>0.00</b>	\$ <b>0.00</b>
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13. Other monthly income

\$ <b>0.00</b>	\$ <b>0.00</b>
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(Specify): \_\_\_\_\_

\$ <b>0.00</b>	\$ <b>0.00</b>
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14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <b>0.00</b>	\$ <b>0.00</b>
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <b>3,337.46</b>	\$ <b>1,175.65</b>
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <b>4,513.11</b>	
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(Report also on Summary of Schedules and, if applicable, on  
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

-NONE-

In re Jason Fred Williams  
Stephanie Anne WilliamsCase No. 10-81432

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Income Attachment****Other Payroll Deductions:**

Dependent Term Life Insurance	\$ 12.70	\$ 0.00
Term Life Insurance	\$ 20.00	\$ 66.02
Accidental Death	\$ 6.00	\$ 24.74
FSA Health	\$ 0.00	\$ 41.66
Short Term Disability	\$ 0.00	\$ 9.36
Total Other Payroll Deductions	\$ 38.70	\$ 141.78

## SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>0.00</u>
a. Are real estate taxes included?	Yes <u>X</u> No <u>  </u>
b. Is property insurance included?	Yes <u>X</u> No <u>  </u>
2. Utilities:	
a. Electricity and heating fuel	\$ <u>155.00</u>
b. Water and sewer	\$ <u>59.00</u>
c. Telephone	\$ <u>0.00</u>
d. Other <u>See Detailed Expense Attachment</u>	\$ <u>331.00</u>
3. Home maintenance (repairs and upkeep)	\$ <u>66.00</u>
4. Food	\$ <u>537.00</u>
5. Clothing	\$ <u>122.00</u>
6. Laundry and dry cleaning	\$ <u>40.00</u>
7. Medical and dental expenses	\$ <u>120.00</u>
8. Transportation (not including car payments)	\$ <u>239.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>19.61</u>
10. Charitable contributions	\$ <u>50.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)	
a. Homeowner's or renter's	\$ <u>0.00</u>
b. Life	\$ <u>0.00</u>
c. Health	\$ <u>0.00</u>
d. Auto	\$ <u>200.00</u>
e. Other	\$ <u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) <u>Personal Property Taxes</u>	\$ <u>37.50</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)	
a. Auto	\$ <u>0.00</u>
b. Other <u>HOA Dues</u>	\$ <u>22.00</u>
c. Other	\$ <u>0.00</u>
14. Alimony, maintenance, and support paid to others	\$ <u>0.00</u>
15. Payments for support of additional dependents not living at your home	\$ <u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ <u>10.00</u>
17. Other <u>See Detailed Expense Attachment</u>	\$ <u>2,505.00</u>
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$ <u>4,513.11</u>
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: <u>None Anticipated</u>	
20. STATEMENT OF MONTHLY NET INCOME	
a. Average monthly income from Line 15 of Schedule I	\$ <u>4,513.11</u>
b. Average monthly expenses from Line 18 above	\$ <u>4,513.11</u>
c. Monthly net income (a. minus b.)	\$ <u>0.00</u>

B6J (Official Form 6J) (12/07)  
In re **Jason Fred Williams**  
**Stephanie Anne Williams**

Case No. **10-81432**

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Expense Attachment**

**Other Utility Expenditures:**

<b>Cell Phone</b>	\$ <b>160.00</b>
<b>Cable</b>	\$ <b>138.00</b>
<b>Home Security Alarm System</b>	\$ <b>33.00</b>
<b>Total Other Utility Expenditures</b>	\$ <b>331.00</b>

**Other Expenditures:**

<b>Chapter 13 Plan Payment</b>	\$ <b>2,198.00</b>
<b>Personal Care</b>	\$ <b>70.00</b>
<b>Emergency Expenses</b>	\$ <b>98.50</b>
<b>Miscellaneous Expenses</b>	\$ <b>98.50</b>
<b>Pet expenses</b>	\$ <b>25.00</b>
<b>Education Expenses</b>	\$ <b>15.00</b>
<b>Total Other Expenditures</b>	\$ <b>2,505.00</b>

**CH. 13 PLAN - DEBTS SHEET**  
**(MIDDLE DISTRICT - STEP PLAN)**

**RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN**

Retain:	Creditor Name	Sch D #	Description of Collateral

**ARREARAGE CLAIMS ON RETAINED COLLATERAL**

Retain:	Creditor Name	Sch D #	Arrearage Amount
	Wells Fargo		\$6,917

**LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY**

Retain:	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Wells Fargo		\$1,576	n/a	n/a	\$1,576	Residence
				n/a	n/a		
				n/a	n/a		

**STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)**

Retain:	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			
				7.00			

**STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)**

Retain:	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	Car Max		\$17,272	5.25	\$173	\$366	2007 Toyota
				7.00			
				7.00			
				7.00			
				7.00			
				7.00			

**ATTORNEY FEES (Unpaid Part)**

Amount

Law Offices of John T. Orcutt, P.C.

\$250

**SECURED TAXES**

Secured Amount

IRS Tax Liens

Real Property Taxes on Retained Realty

**UNSECURED PRIORITY DEBTS**

Amount

IRS Taxes

State Taxes

Personal Property Taxes

Alimony or Child Support Arrearage

**COSIGN PROTECT (Pay 100%)**

Int. %

All 'Co-Sign Protect Debts (See\*\*\*)

Payoff Amount

**GENERAL NON-PRIORITY UNSECURED**

Amount to Pay\*

DMI =

None(\$0)

**Other Miscellaneous Provisions**

**PROPOSED CHAPTER 13 PLAN**

\$ 2198 /month for 53 months, then

\$ N/A /month for N/A months.\*\*

**Definitions**

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMI x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

Final\_MD\_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)